

### **REMARKS**

The issues outstanding in the Office Action mailed April 29, 2004, are the requirement for restriction and the rejections under 35 U.S.C. §112, 102 and 103. Reconsideration of these issues, in view of the following discussion, is respectfully requested.

#### **Requirement for Restriction**

The traversal of the restriction requirement is maintained, for the reasons of record.

#### **Rejection Under 35 U.S.C. §112**

Claims 1 - 5, 9 - 16, 18 - 23, 26 - 34 and 40 - 47 have been rejected under 35 U.S.C. §112, second paragraph. The Examiner's comments in this regard are appreciated, and various typographical and grammatical changes have been made to the claims.

With respect to the comment concerning the recitation of "copolyamides" in component (C), the claim has been clarified to indicate that component (C) is an "additional" polyamide. This is believed to resolve the Examiner's confusion as to overlap with components (A) or (B). Moreover, the recitation of polyamide and polyether blocks has been clarified as clearly supported in the specification at page 12, lines 28 - end and page 18, lines 4 - 10, as well by comparison of claims 6 and 8.

It is accordingly respectfully submitted that the claims fully satisfy the requirements of the second paragraph of the statute, and withdrawal of the rejection under 35 U.S.C. §112 is respectfully requested.

#### **Rejections Under 35 U.S.C. §102/103**

Claims 1, 4, 5, 12 - 16, 18, 19, 22, 23, 27, 28, 30, 32, 33, and 42 - 44 have been rejected under 35 U.S.C. §102(b) or, in the alternative under §103, over EP 070,001. Reconsideration of this rejection is again respectfully requested.

EP '001 (Epstein) discloses a blend of thermoplastic polyamide comprising (a) 5 - 98% by weight of a thermoplastic semi-crystalline polyamide, and (b) 95 - 2% of a thermoplastic amorphous copolyamide. Component (b) is produced from isophthalic acid, terephthalic acid, hexamethylenediamine and at least one aliphatic diamine of 8 - 20 carbon atoms containing at least

one cyclohexane moiety. Semi-crystalline polymers employed in the disclosure are produced from condensation of saturated aliphatic dicarboxylic acid of 4 - 12 carbon atoms with an aliphatic diamine of 2 - 12 carbon atoms. See page 3. Epstein thus discloses a two-component composition teaching, at best, that "of course more than one of each such polyamides and copolyamides may be present." See page 8. Thus, Epstein does not disclose a three-component composition, containing semi-crystalline polyamide, amorphous polyamide and an additional polyamide containing polyamide blocks and polyether blocks, or a copolyamide as in present component (C), nor does Epstein disclose a semi-crystalline polyamide, amorphous polyamide and compatibilizer which is a catalyzed polyamide as in present component (1). While it is argued in the Office Action at page 3 that the compositions of the reference "meet the requirements of the present claims...when the copolyamide component (C) is interpreted as being the same entity as either one of components (A) or (B)," this is submitted not to be the case since component (C) is a "additional" component and thus distinguishable from (A) or (B). This is all the more the case for claim 6, which specifies that component (C) is a copolymer comprising polyamide blocks and polyether blocks. (This is evident from the failure to include claim 6, for example, in the present rejection). In addition, Epstein neither discloses or suggests claims 51 and 52, requiring component (D), the compatibilizer which is a catalyzed polyamide. Accordingly, Epstein fails to anticipate or suggest the presently claimed composition, and withdrawal of the rejection is respectfully requested.

In addition, attention is directed to new independent claim 48, specifying that the semi-crystalline polyamide is produced from monomers having at least 9 carbon atoms, the composition contains 10 - 40% amorphous polyamide (B), and 5 - 40% of (C) plus (D), and moreover it is in the form of an article having a modulus of flexure of 600 to 1400 Mpa. Epstein fails to anticipate or suggest these features, as well. Even to the extent that this list of features would arguably be selected from the generic disclosure of the reference, there is no motivation for one of ordinary skill to make all of the various choices needed to do so. In the absence of such clear motivation, the reference does not suggest claim 48.

Claims 1, 4, 5, 12 - 16, 18, 19, 22, 23, 27, 30, 32, 33 and 42 - 44 have also been rejected under 35 U.S.C. § 102(b) or in the alternative § 103, over Schmid et al. '799. Reconsideration of this rejection is also respectfully requested.

Schmid discloses a composition comprising semi-crystalline polyamide (a), an amorphous copolyamide (b) and "0 - 30 parts of compatibility agent." As noted previously, Schmid fails to disclose compatibility agents within the scope of the present claims. Patentees disclose, as compatibility agents in column 7 and 8, ethylene - propylene copolymers grafted with maleic acid anhydrides, or butyl-acrylate methyl methacrylate polymers grafted with maleic acid and anhydride. Patentees indicate, at column 4, lines 34+, these compatibility agents are materials which are reactive with groups of the two polyamide components, e.g., oligomeric and/or polymeric compounds having reactive groups such as acid anhydride carboxylic acids, diacrylic acids, epoxies, amino and/or carboxylic acid group-containing materials, etc. Patentees thus clearly fail to disclose or suggest the presently claimed compatibility component (D) and, thus, fail to anticipate, or suggest, for example, claims 51 and 52 which require (D), much less claim 52 which requires *both* (C) and (D).

Moreover, it is argued at page 3 of the Office Action that the reference meets copolyamide component (C) of the present claims, if that component is interpreted as the same entity as either (A) or (B). As noted previously, this is not an acceptable interpretation of the claims. Accordingly, withdrawal of this rejection is also respectfully requested.

Moreover, as evident from the absence of claim 6 from the rejection over Schmidt, Patentees fail to disclose or suggest the embodiment where (C) is made up of polyether and polyamide blocks. Furthermore, new claim 48 is also not suggested by the reference, as Schmid fails to suggest the various choices needed to produce a material as claimed therein, as was the case for Epstein.

Claims 2, 20, 21, 26, 28, 29, 31 and 34 have been rejected under 35 U.S.C. §103 over Schmid '799. Reconsideration of this rejection is again respectfully requested.

At a minimum, as discussed above, Schmid fails to suggest the use of component (C), which is distinguishable from component (A) or (B), and fails to suggest the use of a catalyzed polyamide as component (D). Thus, it is submitted that Schmid fails to suggest the basic invention, and the above-noted dependent claims also are not taught to one of ordinary skill in the art by the disclosure. Withdrawal of this rejection is therefore respectfully requested.

Claims 2, 3, 20, 21, 26, 29, 31 and 34 have also been rejected under 35 U.S.C. §13 over Epstein. For the reasons discussed above, Epstein also fails to suggest the use of component (C) or (D). Accordingly, it is submitted this rejection should also be withdrawn.

Claims 1 - 5, 9 - 16, 18 - 23, 26 - 24 and 40 - 47 have also been rejected under 35 U.S.C. §103 over Blondel et al. '172. Reconsideration of this rejection is also respectfully requested.

Blondel, commonly assigned to the present application, discloses blends of a first polyamide, which may be amorphous, and a second semi-crystalline polyamide. See, for example, column 5. Patentees do indicate that the composition "may contain conventional fillers, conventional additives, amidification, or transamidification catalysts and also other polymers, such as another amorphous or semi-crystalline polyamide." See column 6, lines 31 - 35. As noted at page 5 of the Office Action, the patent fails to expressly exemplify a composition containing three polyamides, in which one is semi-crystalline, one is amorphous, and one is catalyzed (as per component (D)). Moreover, it is noted that the patent does not exemplify a composition containing an amorphous polyamide, semi-crystalline polyamide, and an additional polyamide which is a copolyamide or polymer of polyamide blocks and polyether blocks. As discussed above in connection with the other rejections, the Patentees also do not teach an embodiment of the present invention wherein (C) specifically is a mixture of polyamide and polyether blocks (see, for example, claim 6 omitted from this rejection) nor a combination of component (C) and (D), see claim 52.

In addition, it is disputed that the indication in column 6 of the patent (that the composition can contain a variety of conventional materials including catalysts) particularly suggests the use of a catalyzed polyamide as a compatibility agent. In order to make the jump of logic urged at page 4 of the Office Action, one of ordinary skill in the art would not only have to include an additional polyamide, as briefly noted at column 6 of the patents among a list of other items, but exemplified, but would *also* have to use an amount of catalyst in production of the polyamide so that excess catalyst remained, or affirmatively add catalyst after polymerization of the polyamide, so as to result in a catalyzed polyamide in accordance with the present claims. It is submitted that, accordingly, the patent does not suggest to one of ordinary skill in the art the use of a catalyzed polyamide as compatibilizer. Regardless of whether the *present applicants* indicate that the catalyst may be added to (D) during or after production, it is clear that the *reference* itself does not teach engineering of the composition so that catalyst remains in (D) subsequent to its polymerization.

It is additionally argued at page 5 of the Office Action, that Blondel "would similarly make obvious the non-elected embodiment containing polyamide (C)." Applicants respectfully disagree

with this analysis. Of course, it should be noted that this analysis does not apply where (C) is other than a copolyamide, e.g., the block materials discussed in claim 6. Moreover, the off-hand mention at column 6 of the patent that the material may include other "polymers", such as "another amorphous or semicrystalline polyamide", falls short of suggesting copolyamides. Accordingly, withdrawal of this rejection is also respectfully requested.

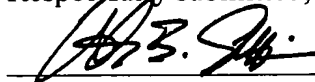
### **Double Patenting**

Various claims of the present application have been rejected over claims of co-pending 10/416,244. Since neither application has been indicated as being allowable, it is submitted to be premature to respond to this rejection at this point. Moreover, it is submitted that the forgoing amendments to the claims have the result that the claims of the co-pending application fail to suggest that the present claims and, thus, fail to provide the requisite obviousness needed for an obviousness-type double patenting rejection. Withdrawal of the rejection is therefore respectfully requested.

Accordingly, the claims of the application are submitted to be in condition for allowance, and passage to issue is respectfully requested. However, should the Examiner have any questions or comments, she is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,



Harry B. Shubin, Reg. No. 32,004  
Attorney/Agent for Applicant(s)

MILLEN, WHITE, ZELANO  
& BRANIGAN, P.C.  
Arlington Courthouse Plaza 1, Suite 1400  
2200 Clarendon Boulevard  
Arlington, Virginia 22201  
Telephone: (703) 243-6333  
Facsimile: (703) 243-6410  
Attorney Docket No.: ATOCM-0245  
Date: July 29, 2004  
HBS/jqs  
K:\Atocm\200-299\245\Reply 7-29-04.doc